

REMARKS

The Examiner issued an Advisory Action in this case having a mailing date of May 20, 2005 and sustaining his earlier rejection in the final rejection Office Action dated April 5, 2005. An RCE accompanies this paper. Hence, this response is timely filed being filed within three months of the date of the prior final rejection. As to any time extensions required, it is requested that same be charged to the undersigned's deposit account set forth in the accompanying transmittal letter.

Rejections

In the most recent Advisory Action the Examiner repeated his rejection, indicated that Applicant's arguments were not persuasive. The Examiner commented on the Panabaker reference and Applicant's earlier comments regarding same, saying "For the above reasons, the Examiner believes that Panabaker does not, in fact, teach away from the claimed limitations."

Additionally, since the Examiner is maintaining his earlier rejection, the following summarizes that earlier rejection from the final rejection dated April 5, 2005. In that Action, see paragraph 4, the Examiner rejected Claims 1-3, 5 and 6 under 35 USC § 103 as unpatentable over Linnartz in view of Panabaker and further in view of Callway et al. The Examiner commented in pertinent part as follows on these references (see Action page 3):

In reference to Claim 1, Linnartz discloses a method including supplying a video signal. . .embedding a watermark in the video signal. . ., and providing data associated with the watermark. . .where the watermark is a function of the ticket. . .in a video line of the vertical blanking interval. . . However, Linnartz does not explicitly disclose if the data associated with the watermark extends over a plurality of fields of the video signal.

The Examiner further commented on Panabaker and Linnartz in the following paragraph:

Panabaker discloses a standard for encoding data in the vertical blanking interval of a video signal in which data is transmitted in packets that contain at most 26 bytes. . .of user data. . . Because

Linnartz discloses that the associated data (the ticket) can be up to 1000 bits long. . . , and each packet can hold only 208 bits of data, it would have been obvious in order to fit a ticket longer than 208 bits into such data packets, it would be necessary to divide the associated data and have it extend over several fields of a video signal. . .

The Examiner commented in pertinent part regarding the third reference, Callway, at page 4:

Although the combination of Linnartz and Panabaker renders obvious the use of associated data extending over a plurality of video fields, either Linnartz nor Panabaker explicitly discloses sending the associated data on a line of the vertical blanking interval carrying parental blocking data. Callway discloses a method for detecting protection of video signals that includes an indication of protection. . . that carries both parental control and copy protection data. . . Callway further discloses that this data access parameter. . . is included in the vertical blanking interval of the video signal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a method of Linnartz and Panabaker by sending the associated data (regarding copy protection) together with parental control data in a line of the vertical blanking interval, in order to allow for a further way of control over the video data by prohibiting unauthorized access according to parental controls, in addition to preventing unauthorized copying. . .

In the subsequent Advisory Action the Examiner further commented regarding Panabaker:

The Examiner directs Applicant's attention to Panabaker, at the middle of page 6, where it states that "packets are modulated onto the television sequentially and then any combination of lines", which clearly does not exclude line 21.

The Examiner further commented in the Advisory Action with regard to the particular claimed video line:

It is further noted that nowhere has Applicant specifically claimed only line 21 of field 2, but rather line 21 was claimed in general. For the

above reasons, the Examiner believes that Panabaker does not, in fact, teach away from the claim limitations.

Amendments

Applicant amended the two independent Claims 1 and 5 identically herein to recite, see Claim 1, beginning line 5 “providing data in a predetermined video line of the video signal in the vertical blanking interval carrying parental blocking data according to an established television standard, the data being associated with the watermark.” (Emphasis added.) Applicant has deleted from Claims 1 and 5 the clause added earlier “and extending over a plurality of fields of the video signal.” It is believed that this clause is not required for reasons of patentability. Hence, it has been deleted.

This amendment as to the “television standard” is well supported by the specification, see, for instance, page 5 beginning line 23:

Video line 21 (in NTSC TV, which is the U.S. television standard) currently is used to carry closed caption data and parental blocking (V-chip) data in accordance with two significant standards. . . (Other television standards have similar features and may be used similarly.) In particular, various U.S. laws require television sets sold in the U.S. to react to data carried by line 21 and require the data on line 21 to be preserved during transmission through various paths.

Further, as stated following on page 6 beginning line 13:

Field 2, line 21 may however have closed caption, parental blocking or other extended data services. The protocol provided with extended data services is flexible enough that the protocol can accommodate a ticket (or other associated data) as described above.

Hence, in accordance with the invention the data is located in the video line also carrying parental blocking data according to the television standard or standards. As pointed out in the present specification at page 6, beginning line 4 “The legal requirement (in the U.S., at least) to

provide parental blocking ensures that PC's (personal computers), as a potential class of storage/recording device, must recognize video line 21 data."

Advantageously this is used in accordance with the invention to carry the ticket used in conjunction with the video watermark, whereby the information on e.g., video line 21 must be preserved according to the television standard during transmission through various paths. These paths would include T.V. receivers and personal computers with video tuner cards and having displays greater than 13 inches in size, for instance in the U.S., see specification, bottom of page 5 carrying over to top of page 6. Hence, personal computers, for instance, must recognize the video line 21 data and hence will preserve the ticket on video line 21 even though other portions of, for instance, the video vertical blanking interval may not be transmitted through these data paths. Hence, the selection of this particular video line has definite advantages over the use of other video lines in the horizontal or vertical blanking intervals.

Present claims distinguish over the references even in combination

It is respectfully submitted that the present claims distinguish over the references cited in the Office Action which are Linnartz, Callway, and Panabaker. The most pertinent reference, per the Examiner, is Callway in terms of video line 21. It is respectfully submitted that perhaps the Examiner has not fully analyzed the relevant disclosure of Callway. First, Callway teaches using his "embedded protection coding" for parental control, copy protection, etc. See Callway, col. 2 beginning line 64:

The graphics controller 20 generates the indication of protection 24 by monitoring the video data 18 for the embedded protection coding. When detected, the graphics controller 20 provides the indication of protection. . . The indication may be an indication that some form of protection is available. . . or the indication may clearly define the particular type for protection. For example, the protection may be limited viewing options, parental control, copy restrictions, use restrictions of particular data, . . . and/or reduced quality copying. (Emphasis added.)

Moreover, Callway points out that his embedded protection coding is present in either the horizontal or vertical blanking intervals. See, Callway, col. 3 beginning line 39:

If the video data is to be encoded, the horizontal sync lines 38 and 40 and/or the vertical sync lines 36 and 34 would include the embedded data access parameters. (Emphasis added.)

Note that the numbers here, 38, 40, 36 and 34, are reference numbers and not the particular video line numbers. Next Callway points out how the vertical blanking interval conventionally carries the closed caption or teletext information at col. 3, line 40:

For example, the vertical sync lines 34 and 36 may include embedded information that allows close caption to be employed on a television set. The vertical sync lines 34 and 36—also referred to as vertical blank intervals—may further store information that is referred to as teletext lines, which allow for additional information to be carried under vertical sync lines 34 and 36. . .

There is no suggestion or disclosure here of use of the Federal Communications Commission (FCC) designated closed caption lines for carrying the Callway encoded video data. The Callway disclosure is merely that the embedded data access parameters or encoded video data may be somewhere in the horizontal sync lines and/or the vertical sync lines or blanking intervals, see col. 3, lines 35 through 40.

Further, the only relevant depicted waveform is Callway Fig. 3 described at col. 3 beginning line 52, which shows using the horizontal blanking interval, not the vertical blanking interval, for carrying the data access parameters:

FIG. 3 illustrates a representation of a horizontal sync line 38 or 40 that includes data access parameters 42, 44... As shown the data access parameters 42 and 44 are embedded in the wave form to indicate that the data being transmitted is to be copy protected. (Emphasis added.)

Callway Fig. 3 clearly shows a horizontal blanking interval for an active video line (see the color burst 50 and video data 52) not part of the video blanking interval which would not have color burst or “video data” (i.e., active video).

There is further description in Callway of the parental control aspect following at col. 3 beginning line 64:

These data access parameters 42 and 44, however, may further include data access restrictions related to viewing options, parental control, and use restrictions over particular data. (Emphasis added.)

It is clear therefore that this refers to putting the data access parameters for “parental control” in the horizontal blanking interval, which is all that is depicted in Callway Fig. 3. There is no suggestion to put same into the vertical blanking interval and especially not into line 21, which of course always occurs in the vertical blanking interval in NTSC TV. So clearly this part of Callway is not a reference to the FCC type (television standard) mandated parental control data being in line 21.

Moreover, there is no connection made here by Callway between his “parental control” and “close captioning”, or use of the particular, for instance, FCC mandated video line 21 for carrying the data access parameters, also referred to by Callway as being the embedded data access parameters. Hence, it is clear that Callway does not recognize the advantage of use of video line 21 for carrying data. Neither do the other references, Panabaker or Linnartz.

For instance, in Panabaker the disclosure is general about use of the vertical blanking interval for data carriage and does not specifically disclose use of line 21 for his data. The Examiner in effect pointed this out in his Advisory Action by referring to Panabaker and indicating that Panabaker “clearly does not exclude line 21.” Of course, this is not the same as disclosing line 21 either. It is elementary patent law that at least one of the references must explicitly or inherently disclose the claimed feature for a proper anticipation rejection. In this case, the reference relied upon, Panabaker, fails to do so. Neither, as pointed out above, does the Callway reference. So even

if the Examiner believes sincerely that Panabaker fails to teach away from use of video line 21, it is clear that Panabaker also fails to explicitly disclose same or inherently disclose same. Moreover, even under 35 USC §103, these references even in combination fail to meet the claimed subject matter.

Further, as regards Panabaker, it is respectfully pointed out that Panabaker itself is not available as prior art under 35 USC § 102 against the present application. Panabaker bears a publication date of November, 1999. The present application claims priority to provisional application Serial No. 60/121,806 filed February 25, 1999. See present application filing receipt. Support, for instance, for Claims 1 and 5 as now pending, is found in that provisional application. See, for instance, in that provisional application, page 4, line 25 through page 5, line 15, which discloses the same subject matter as the present specification, page 5, line 29 and following, and so supports present Claims 1 and 5 as amended here.

Hence Panabaker does not meet the relevant portion of Claim 1, and moreover, even if it does, is not available under 35 USC §102 as prior art against same. Since Panabaker itself does not meet the claim, any other reference even with an earlier date having similar disclosure as Panabaker similarly would not support a rejection of Claim 1.

Of course, the remaining reference Linnartz, as the Examiner admits, itself fails to disclose the relevant aspects of, for instance, Claim 1 and, hence, even in combination with the other two references, which are Panabaker (of course, not actually available for prior art purposes) and Callway fails to remedy the deficiencies of the other references. Therefore even in combination, all three references fail to render Claim 1 obvious. Hence Claim 1 is patentably distinguishable over these references.

As pointed out above, Claim 5 directed to an apparatus, has been amended similarly here to Claim 1 and distinguishes over the references even in combination for at least the same reasons as pertain to Claim 1.

Dependent Claims

The remaining pending claims, which are Claims 2 through 4 and 41 through 46, are allowable for at least their dependency upon one of the independent claims.

Moreover, Claim 41 as amended now recites “wherein the video field is field 2, line 21.” This has been amended to recite “field 2” rather than merely “video line 21”. This addresses the point made by the Examiner in his Advisory Action. Claim 41 distinguishes over the references in addition to the reasons as pertain to its base Claim 5 because no such use of video line 21 of field 2 is suggested by any of the references, as pointed out above.

New Claim 44 is essentially identical to Claim 41, but depends on Claim 1 rather than Claim 5.

Applicant also added new Claims 45 and 46 here, which recite the feature deleted here from Claims 1 and 5 pertaining to the length of the data. Claims 45 and 46 distinguish over the references for at least the same reason as the respective base claim.


Conclusion

Therefore it is respectfully submitted that this application with pending Claims 1 through 4, 5 and 6, and 41 through 46 is allowable and allowance is requested. If the Examiner contemplates other action he is requested to contact the undersigned at the telephone number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 136922001900.

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Respectfully submitted,

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